IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 33478 of 2007(I)

PETITIONER:

K.T.MOOSAKUTTY HAJI,
KARALIKATTIL HOUSE,
NEAR WANDOOR ORPHANAGE,
P.O.WANDOOR, MALAPPURAM.

BY ADV. SRI.ANIL SIVARAMAN

RESPONDENTS:
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1. REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM. 679328.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM. 679328.

3. MOHAMMED, S/O POCKER,
ERAMBATH HOUSE, KALIKAVU,
MALAPPURAM-679328.

BY ADV. SRI.BABU S. NAIR -- R3
GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 33478/2007 I

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. CL/28361/99 DT. 30/09/99.

EXT.P2. COPY OF THE OBJECTION PREFERRED BY THE PETITIONER BEFORE R1 DT. 7/8/07.

EXT.P3. COPY OF THE PROCEEDINGS OF THE RTA, MALAPPURAM DT. 07/08/2007.

RESPONDENT'S EXHIBITS

EXT.R3A. COPY OF THE ORDER OF THE STAT IN MVAA NO. 128/07 DT. 19/03/2007.

EXT.R3B. COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WPC NO. 18281/2007 DT. 3/10/2007.

True copy

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ANTONY DOMINIC, J.

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W.P.(C) NO.33478 OF 2007

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Dated this the 28th day of November, 2007

J U D G M E N T

The controversy in this writ petition is regarding the implementation of Ext.R3(a) and the consequent order Ext.P3. By Ext.R3(a), appeal filed by the 3rd respondent was allowed and the RTA was directed to grant permit as claimed subject to settlement of timings. In pursuance to Ext.R3(a), the 1st respondent considered the matter and issued Ext.P3 dated 7/8/07, by which the 3rd respondent was granted permit again subject to the settlement of timings. The writ petitioner complains that without settling the timings as directed by the STAT or RTA, permit is going to be issued to the 3rd respondent and hence this writ petition.

2. The grievance of the petitioner is certainly well founded. In both Exts. R3(a) and Ext.P3, it was made clear that the grant of permit is subject to settlement of timings. If that be so, permit cannot be issued except after settling the timings. Therefore the writ petitioner is entitled to succeed.

3. The counsel for the 3rd respondent refers to the judgment of this court in WP(C) No.18281/07, which was passed in a writ petition filed by him. True, in that judgment rendered on 3rd October, 2007, this court directed implementation of the STAT order. But then, long before the judgment was rendered, the RTA had already passed Ext.P3 proceedings on 7/8/07. Therefore, had it been known to this court that the RTA had already issued the proceedings, the judgment would not have been rendered in that matter and it is the 3rd respondent who is responsible for inviting such a judgment.

4. Writ petitioner is entitled to succeed. It is directed that the 2nd respondent shall not issue permit to the 3rd respondent unless and until timing is settled as directed in Exts. R3(a) and Ext.P3. It is directed that the 1st respondent shall take action for settlement of timings as ordered in Ext.R3(a) and Ext.P3, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

Rp